

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

B-219355.3

FILE:

DATE: October 18, 1985

MATTER OF:Jowa Security Services Inc.--
Reconsideration**DIGEST:**

Dismissal of protest because protester did not submit comments on agency report or state interest in having the protest decided based on the existing record within 7 working days after receipt of the agency report is affirmed. Contracting agency's advice to protester that it had right to submit comments within 7 days after receipt of the report did not contradict protester's obligation, of which protester was advised in notice acknowledging protest, to advise GAO if it wanted the protest decided based on the existing record.

Jowa Security Services Inc. (Jowa) basically requests that we reconsider our decision dismissing its protest under Federal Aviation Administration (FAA) invitation for bids No. DTFA03-85-B-50017, and consider the protest on its merits. We dismissed the protest because we had not received any communication from Jowa regarding the contracting agency's report on the protest within 7 working days after the date scheduled for the agency's submission of the report. Jowa contends that it was "lulled" into not responding to the report by a sentence FAA added to Jowa's copy of the report's cover letter. The sentence read: "You have the right to submit comments within 7 working days of receipt of the [agency report]." Jowa states that it was content to have the protest decided on the basis of the existing record, and therefore made no response.

We affirm the prior dismissal. This Office, by notice dated July 22, 1985, acknowledged Jowa's protest, and advised Jowa that under our Bid Protest Regulations, 4 C.F.R. § 21.3(e) (1985), it must submit within 7 working

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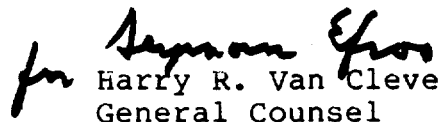
days after its receipt of the report written comments to the report or a statement that it wished the protest decided on the basis of the existing record. The acknowledgment letter also notified Jowa of the date the agency report was due, and that if we did not hear from Jowa by the seventh day after the report's due date, we would close our file.

We require some statement of continued interest in a protest because protesters sometimes change their minds about pursuing their protests after receiving the agency report. See McGrail Equipment Company, Inc.--Reconsideration, B-211302.2, July 21, 1983, 83-2 CPD ¶ 106. Absent an expression of continued interest, we have no way of knowing whether the protest still reflects a real controversy after the protester has received the agency report; it is our policy not to rule on academic issues. See TeQcom, Inc., B-218512, May 2, 1985, 85-1 CPD ¶ 495.

Our Bid Protest Regulations limit the time for submission of a statement of interest to 7 working days after receipt of the agency report; this limit is necessary to assure prompt resolution of protests. It is also our policy not to reopen a file where there has been no timely response to the report, since to do so would be inconsistent with that purpose.

The FAA statement that the protester had the right to submit comments within 7 working days after its receipt of the report was not inconsistent with the protester's obligation to advise us, within the required time frame, of its continued interest in the protest. The FAA did not advise Jowa that if it took no action regarding the report the protest simply would be considered on its merits. The FAA statement thus provided no basis for Jowa's ignoring its obligation under our Bid Protest Regulations and our acknowledgment notice.

The dismissal of the protest is affirmed.


Harry R. Van Cleve
General Counsel